

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	NO. CV-10-235-EFS
)	
vs.)	
)	
790 SOUTH KIELIAN LANE,)	FINAL ORDER OF FORFEITURE
OTHELLO, WASHINGTON, TOGETHER)	
WITH ALL APPURTENANCES,)	
FIXTURES, ATTACHMENTS, AND)	
IMPROVEMENTS THERETO AND)	
THEREUPON,)	
)	
VACANT LAND, ADAMS COUNTY)	
PARCEL NUMBER 1-529-03-142-)	
0003, TOGETHER WITH ALL)	
APPURTENANCES, FIXTURES,)	
ATTACHMENTS, AND IMPROVEMENTS)	
THERETO AND THEREUPON,)	
)	
\$157,730.00 U.S. CURRENCY,)	
)	
Defendants.)	
)	

Plaintiff, United States of America, alleged in a Verified Complaint for Forfeiture In Rem, that the defendant property is subject to forfeiture to the United States pursuant to 21 U.S.C. § 881. ECF No. 1.

The Court has jurisdiction over this matter by virtue of 28 U.S.C. §§ 1345 and 1355. Venue is proper pursuant to 28 U.S.C. § 1395.

OVERVIEW

The assets being forfeited are described as follows:

1) \$60,000.00 substitute res in lieu of forfeiture of the real property located at 790 South Kielian Lane, in Othello, Washington;

2) Vacant Land, Adams County Parcel Number 1-529-03-142-0003, legally described as follows:

Lot 3, CLYNE SHORT PLAT, according to the Short Plat filed February 6, 2003, in Volume 1 of Short Plats, Pages 74-76, records of Adams County, Washington.
Tax Parcel No. 1-529-03-142-0003.

Together with all appurtenances, fixtures, attachments, and improvements thereto and thereupon.

SUBJECT to any easements, rights of way, reservations, and/exceptions, and actions of record.

3) Approximately \$157,730.00 in United States currency seized on or about March 25, 2009, from a hidden compartment in a 1996 Ford Explorer, VIN: 1FMDU34X9TUA53044.

In accordance with Fed. R. Civ. P. Rule G(4)(a)(iv)(C), Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions, notice of civil forfeiture was posted on an official government website, www.forfeiture.gov, beginning September 22, 2010. ECF No. 22. Based upon the internet publication start date of September 22, 2010, the last date to file a timely claim was October 21, 2010.

I. \$60,000.00 substitute res in lieu of forfeiture of the real property located at 790 South Kielian Lane, in Othello, Washington

On September 21, 2010, the Estate of Robert Kielian, Urszula Kielian and Attorney Toni Meacham were served via certified mail, return receipt requested, with copies of the Notice of Complaint, Verified Complaint for Forfeiture In Rem, and Amended Lis Pendens,

1 as evidenced by the Certificate of Service of Notice by Mail filed
2 herein. ECF No. 5 and 5-1.

3 On September 30, 2010, the United States filed the Amended Lis
4 Pendens, recorded in Adams County on September 23, 2010. ECF No.
5 13.

6 On October 22, 2010, the Estate of Robert J. Kielian, David
7 Kielian and Urszula Kielian filed a petition for hearing and filed
8 exhibits regarding the petition on October 28, 2010. ECF Nos. 18
9 and 21.

10 On July 6, 2011, the United States filed a settlement
11 agreement between the United States and the Estate of Robert
12 Kielian, Urszula Kielian, and David Kielian ("Claimants") in which
13 the Claimants agreed to provide \$60,000.00 substitute res in lieu
14 of forfeiture of the real property at 790 South Kielian Lane, in
15 Othello, Washington. ECF No. 38.

16 On December 28, 2011, the United States filed a Notice of
17 Compliance confirming receipt of the agreed upon \$60,000.00
18 substitute res pursuant to the terms of the settlement agreement.
19 ECF No. 53.

20 On January 13, 2012, the United States filed the Release of
21 Lis Pendens recorded in Adams County on January 10, 2012. ECF No.
22 55.

23 II. Vacant Land, Adams County Parcel Number 1-529-03-142-0003,
24 legally described as follows:

25 Lot 3, CLYNE SHORT PLAT, according to the Short Plat
26 filed February 6, 2003, in Volume 1 of Short Plats, Pages
74-76, records of Adams County, Washington.
Tax Parcel No. 1-529-03-142-0003.

27 Together with all appurtenances, fixtures, attachments,
28 and improvements thereto and thereupon.

1 SUBJECT to any easements, rights of way, reservations,
2 and/exceptions, and actions of record.

3 On May 6, 2010, in the Eastern District of Washington related
4 criminal case United States v. Baldemar Zuniga-Guzman, Criminal
5 Case No. 09-CR-075-LRS-2, Defendant Baldemar Zuniga-Guzman entered
6 into a plea agreement in which he agreed to the forfeit his
7 interest in the real property known as Vacant Land, Adams County
8 Parcel Number 529-03-142-0003. ECF No. 479. On February 6, 2012,
9 the forfeiture of the real property was included in Defendant
10 Baldemar Zungiza's Amended Judgment. ECF No. 669.

11 On September 21, 2010, Sylvia Mendoza was served, via
12 certified mail, return receipt requested, and, regular U.S. mail,
13 with copies of the Notice of Complaint, Verified Complaint for
14 Forfeiture In Rem, and Amended Lis Pendens, as evidenced by the
15 Certificate of Service of Notice by Mail filed herein. ECF Nos. 6
16 and 6-1. Based upon the September 21, 2010, service date, Sylvia
17 Mendoza's claim deadline was October 26, 2010.

18 On September 30, 2010, the United States filed the Amended Lis
19 Pendens, recorded in Adams County on September 23, 2010. ECF No.
20 14.

21 On April 27, 2011, Sylvia Mendoza was served with the United
22 States' Notice of Motion for Default. ECF No. 37. On November 4,
23 2011, Sylvia Mendoza was served with the United States' Motion for
24 Entry of Default, and Declaration by James A. Goeke in Support of
25 Motion for Entry of Default. ECF Nos. 48 and 49. On November 7,
26 2011, the Clerk entered a Clerk's Order of Default as to Sylvia
27 Mendoza's interest in the Defendant real property known as Vacant
28 Land, Adams County Parcel Number 1-529-03-142-0003. ECF No. 51.

1 To date, Sylvia Mendoza has not filed a claim to the Defendant real
2 property, and the deadline to file a timely claim has passed.

3 The United States and Robert and Lori Carlson ("the Carlsons")
4 entered into a Settlement Agreement regarding the Defendant real
5 property known as Vacant Land, Adams County Parcel Number 1-529-03-
6 142-0003, filed herein on September 21, 2011. ECF No. 41. In said
7 settlement agreement, the United States acknowledged the Carlsons'
8 interest in the Defendant real property. The parties agreed that
9 upon the sale of the Defendant real property, pursuant to an
10 interlocutory sale order or a final order of forfeiture, that the
11 United States would pay amounts owing to the Carlsons, and
12 attorney's fees, as outlined in the settlement agreement.

13 Baldemar Zuniga-Guzman's interest has been resolved through
14 the entry of the Plea Agreement and the Amended Judgment filed in
15 the related criminal case.

16 Sylvia Mendoza's interest in the Defendant real property has
17 been resolved through the entry of the Clerk's Order of Default.

18 The Carlsons' interest in the Defendant real property has been
19 resolved through the entry of the Settlement Agreement filed
20 herein.

21 III. Approximately \$157,730.00 in United States currency seized on
22 or about March 25, 2009, from a hidden compartment in a 1996
Ford Explorer, VIN: 1FMDU34X9TUA53044.

23 On September 28, 2010, the Clerk issued the Warrant of Arrest
24 In Rem, for the Defendant \$157,730.00 U.S. Currency, pursuant to
25 the Court's order of the same date. ECF No. 9. On November 8,
26 2010, the Warrant of Arrest In Rem was executed by the United
27 States Marshals Service. On November 23, 2010, the United States
28 filed the executed Warrant of Arrest in Rem. ECF No. 25.

1 On January 21, 2011, Heriberto Zuniga-Guzman was served, via
2 certified mail, return receipt requested, and, regular U.S. mail,
3 with copies of the Notice of Complaint, Verified Complaint for
4 Forfeiture In Rem, and Warrant of Arrest In Rem, as evidenced by
5 the Certificate of Service of Notice by Mail filed herein. ECF No.
6 35 and 35-1. Based upon the January 21, 2011, service date,
7 Heriberto Zuniga-Garcia's claim deadline was February 25, 2011.

8 On April 27, 2011, Heriberto Zuniga-Guzman was served with the
9 United States' Notice of Motion for Default. ECF No. 36. On
10 November 4, 2011, Heriberto Zuniga-Guzman was served with the
11 United States' Motion for Entry of Default, and Declaration by
12 James A. Goeke in Support of Motion for Entry of Default. ECF Nos.
13 46 and 47. On November 7, 2011, the Clerk entered a Clerk's Order
14 of Default as to Heriberto Zuniga-Guzman's interest in the
15 Defendant \$157,730.00 U.S. Currency. ECF No. 50.

16 Heriberto Zuniga-Guzman's interest in the Defendant
17 \$157,730.00 U.S. Currency has been resolved through the entry of
18 the Clerk's Order of Default.

19 In accordance with Fed. R. Civ. P. Rule G(4)(a)(iv)(C),
20 Supplemental Rules for Admiralty or Maritime Claims and Asset
21 Forfeiture Actions, notice of civil forfeiture was posted on an
22 official government website, www.forfeiture.gov, beginning
23 September 22, 2010. ECF No. 22. Based upon the internet
24 publication start date of September 22, 2010, the last date to file
25 a timely claim was October 21, 2010.

26 To date, no claims have been filed to the Defendant
27 \$157,730.00 U.S. Currency, and the deadlines for filing a timely
28 claim has passed.

ORDER

I. \$60,000.00 substitute res in lieu of forfeiture of the real property located at 790 South Kielian Lane, in Othello, Washington

It appearing to the Court that all interests and claims to the Defendant real property, 790 South Kielian Lane, have been resolved through the receipt of the \$60,000.00 substitute res and recording of the Release of Lis Pendens in compliance with the terms of the Settlement Agreement and Stipulation for Forfeiture of Substitute Res;

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the \$60,000.00 substitute res is hereby forfeited to the United States of America, and no right, title, or interest shall exist in any other person.

II. Vacant Land, Adams County Parcel Number 1-529-03-142-0003, legally described as follows:

It appearing to the Court that Baldemar Zuniga-Guzman's interest in the Defendant real property, Vacant Land, Adams County Parcel Number 1-529-03-142-0003 has been resolved through the entry of the Plea Agreement and the Amended Judgment filed in the related criminal case.

It also appearing to the Court that Sylvia Mendoza's interest in the Defendant real property has been resolved through the entry of the Clerk's Order of Default.

It further appearing to the Court that the Carlsons' interest in the Defendant real property, Vacant Land, Adams County Parcel Number 1-529-03-142-0003, has been resolved through the entry of the Settlement Agreement filed herein.

1 It also appearing to the Court that no other timely claims
2 have been made to the Defendant real property, Vacant Land, Adams
3 County Parcel Number 1-529-03-142-0003;

4 **IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED,** that the
5 Vacant Land, Adams County Parcel Number 1-529-03-142-0003, legally
6 described as follows:

7 Lot 3, CLYNE SHORT PLAT, according to the Short Plat
8 filed February 6, 2003, in Volume 1 of Short Plats, Pages
9 74-76, records of Adams County, Washington.
Tax Parcel No. 1-529-03-142-0003.

10 Together with all appurtenances, fixtures, attachments,
and improvements thereto and thereupon.

11 SUBJECT to any easements, rights of way, reservations,
12 and/exceptions, and actions of record.

13 Is hereby forfeited to the United States of America, and no right,
14 title or interest shall exist in any other person.

15 **IT IS FURTHER ORDERED** that the United States Marshals Service
16 shall, upon sale of the Defendant real property, Vacant Land, Adams
17 County Parcel Number 1-529-03-142-0003, and after payment of
18 outstanding taxes and U.S. Marshal's expenses of custody and sale,
19 pursuant to the Settlement Agreement filed herein, pay the
20 following to the Carlsons:

21 a. All unpaid interest due to the Carlsons, in the
22 amount of \$5,875.00, as of June 10, 2011, pursuant to a Real Estate
23 Contract ("Contract"), recorded April 12, 2007, in the official
24 records of Adams County, Washington, under Recording No. 285086;
25 with additional interest accruing on the \$5,875.00 at \$1.28 per
26 diem from April 1, 2011, until the date of payment; and,

27 b. Attorney fees and costs in the amount of \$1,762.09.
28

1 III. Approximately \$157,730.00 in United States currency seized on
2 or about March 25, 2009, from a hidden compartment in a 1996
Ford Explorer, VIN: 1FMDU34X9TUA53044.

3 It appearing to the Court that Heriberto Zuniga-Guzman's
4 interest in the Defendant \$157,730.00 U.S. Currency has been
5 resolved through the entry of the Clerk's Order of Default.

6 It also appearing to the Court that no timely claims have been
7 made to the Defendant \$157,730.00 U.S. Currency;

8 **IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED** that the
9 Defendant \$157,730.00 U.S. Currency is hereby forfeited to the
10 United States of America, and no right, title, or interest shall
11 exist in any other person.

12 **IT IS FURTHER ORDERED** that the United States shall dispose of
13 all of the forfeited Defendant property in accordance with law.

14 DATED this 29th day of February, 2012.

15
16 S/ Edward F. Shea

17 EDWARD F. SHEA
18 United States District Judge
19
20
21
22
23
24
25
26
27
28